

SENATE BILL 5

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SB 298/03 - JPR

2004 Regular Session  
4lr0381  
CF 4lr0427

(PRE-FILED)

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By: **Senator McFadden (Chairman, Joint Audit Committee) and Senators  
Hogan, Kramer, Lawlah, Stoltzfus, and Garagiola**

Requested: August 4, 2003  
Introduced and read first time: January 14, 2004  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: February 10, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Attorney General - Prosecution of Criminal Offenses Reported by the Office**  
3 **of Legislative Audits**

4 FOR the purpose of repealing a requirement that the Legislative Auditor report  
5 certain alleged violations of law by a unit of State government or other body that  
6 is audited or reviewed by the Office of the Legislative Auditor under certain  
7 circumstances; repealing a requirement that the Attorney General respond to  
8 certain persons regarding certain actions taken by the Attorney General based  
9 on a certain report by the Legislative Auditor; authorizing the Legislative  
10 Auditor to report to the Attorney General any alleged criminal violation by a  
11 person discovered during the course of an audit ~~or review, review, or~~  
12 investigation; requiring the Attorney General to keep a certain report of an  
13 alleged criminal violation confidential under certain circumstances; authorizing  
14 the Attorney General to investigate and prosecute any alleged criminal violation  
15 reported by the Legislative Auditor under certain circumstances; authorizing  
16 the Attorney General to exercise all the powers and duties of a State's Attorney  
17 to investigate and prosecute certain alleged criminal violations under certain  
18 circumstances; creating an exception to certain confidentiality requirements of  
19 the Legislative Auditor under certain circumstances; and generally relating to  
20 the authority of the Attorney General to investigate and prosecute certain  
21 alleged criminal violations reported by the Legislative Auditor under certain  
22 circumstances.

23 BY repealing  
24 Article - State Government  
25 Section 2-1225

1 Annotated Code of Maryland  
2 (1999 Replacement Volume and 2003 Supplement)

3 BY adding to  
4 Article - State Government  
5 Section 2-1225  
6 Annotated Code of Maryland  
7 (1999 Replacement Volume and 2003 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Article - State Government  
10 Section 2-1226  
11 Annotated Code of Maryland  
12 (1999 Replacement Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - State Government**

16 [2-1225.

17 (a) (1) In addition to the report under § 2-1224 of this subtitle, the  
18 Legislative Auditor shall report an apparent violation of any law on use of State funds  
19 by the unit of the State government or other body that is audited or reviewed.

20 (2) A report under this subsection shall be submitted to:

21 (i) the Joint Audit Committee;

22 (ii) the Executive Director;

23 (iii) the unit or body that is the subject of the report; and

24 (iv) the Office of the Attorney General.

25 (b) (1) The Legislative Auditor shall report to the Attorney General and an  
26 appropriate State's Attorney an apparent default to the State for any money by an  
27 officer or employee who is subject to audit or review.

28 (2) A report under this subsection shall ask the Attorney General and  
29 State's Attorney to take appropriate action.

30 (c) (1) The Office of the Attorney General shall respond, in writing, to a  
31 report received from the Legislative Auditor under this section.

32 (2) The response of the Attorney General shall include what actions, if  
33 any, were taken as a result of the findings of the Legislative Auditor.

1 (3) The response of the Attorney General shall be submitted to:

2 (i) the Joint Audit Committee;

3 (ii) the Executive Director;

4 (iii) the unit or body that is the subject of the report; and

5 (iv) the Legislative Auditor.]

6 2-1225.

7 (A) IF THE LEGISLATIVE AUDITOR DISCOVERS ANY ALLEGED CRIMINAL  
8 VIOLATION BY A PERSON DURING THE COURSE OF AN AUDIT ~~OR REVIEW~~, REVIEW, OR  
9 INVESTIGATION, THE LEGISLATIVE AUDITOR MAY REPORT THE ALLEGED VIOLATION  
10 TO THE ATTORNEY GENERAL.

11 (B) UNLESS THE ATTORNEY GENERAL DECIDES TO PROSECUTE AN ALLEGED  
12 CRIMINAL VIOLATION REPORTED UNDER SUBSECTION (A) OF THIS SECTION, THE  
13 ATTORNEY GENERAL SHALL KEEP THE REPORT OF THE LEGISLATIVE AUDITOR  
14 UNDER SUBSECTION (A) OF THIS SECTION CONFIDENTIAL.

15 (C) THE ATTORNEY GENERAL MAY INVESTIGATE AND PROSECUTE ANY  
16 ALLEGED CRIMINAL VIOLATION REPORTED UNDER SUBSECTION (A) OF THIS  
17 SECTION AND HAS ALL THE POWERS AND DUTIES OF A STATE'S ATTORNEY,  
18 INCLUDING THE USE OF A GRAND JURY IN ANY COUNTY OR BALTIMORE CITY, TO  
19 INVESTIGATE AND PROSECUTE THE ALLEGED VIOLATION.

20 2-1226.

21 (a) Except as provided in § 2-1225 OF THIS SUBTITLE AND subsection (b) of this  
22 section, information that an employee of the Office of Legislative Audits obtains  
23 during an audit or review:

24 (1) is confidential; and

25 (2) may not be disclosed except to another employee of the Office of  
26 Legislative Audits.

27 (b) The Legislative Auditor may authorize the disclosure of information  
28 obtained during an audit or review only to the following:

29 (1) another employee of the Department, with the approval of the  
30 Executive Director;

31 (2) federal, State, or local officials, or their auditors, who provide  
32 evidence to the Legislative Auditor that they are performing investigations, studies,  
33 or audits related to that same audit or review and who provide justification for the  
34 specific information requested; or

1           (3)       the Joint Audit Committee, if necessary to assist the Committee in  
2 reviewing a report issued by the Legislative Auditor.

3       (c)       [If] EXCEPT AS PROVIDED IN § 2-1225 OF THIS SUBTITLE, IF information  
4 that an employee obtains during an audit or review also is confidential under another  
5 law, the employee or the Legislative Auditor may not include in a report or otherwise  
6 use the information in any manner that discloses the identity of any person who is the  
7 subject of the confidential information.

8       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
9 effect October 1, 2004.